

REMARKS

This Amendment is to the non-final Office Action mailed January 2, 2004. Claims 1 to 24 are pending in this application. In this Amendment, Claims 1, 6, 11 and 19 have been amended. A check in the amount of \$110.00 is submitted herewith to cover the cost of the accompanying Petition for One-Month Extension of Time. Please charge Deposit Account No. 02-1818 for any additional fees owed.

In the Office Action, the oath or declaration was declared defective because the declaration submitted did not include the citizenship of each director. A new oath naming the citizenship of each inventor has been prepared and will be timely filed upon obtaining a new signature from each inventor.

Figure 2 was objected to because it has not been designated as prior art. A replacement sheet designating Figure 2 as prior art is submitted herewith. Applicants also note that the correct reference number for the information disclosure statement filed on February 20, 2002, should not be 5,149,565 or 5,149,566 listed in the Office Action on page 5. Instead, the correct reference number should be U.S. Patent No. 5,149,556, which issued September 22, 1992 to Le Viet et al.

Claims 1 to 24 were rejected under 35 U.S.C. § 103(a) as being obvious in view of U.S. Patent No. 3,630,755 to Schiffmann et al. ("*Schiffmann*"). Before discussing each of the claims of the present invention in connection with Schiffman, Applicants believe it is helpful to discuss *Schiffmann* generally. *Schiffmann* discloses an improved proofing method as indicated by preambles of the claims of *Schiffmann*. Proofing is discussed in the present invention in connection with proofer 22 of the process flow diagram of Fig. 1. As disclosed in the specification of Applicants invention on page 8, proofing develops the raw dough shape or product and allows yeast within the dough to absorb nutrients from sugar within the dough, e.g., from dextrose. The absorption begins the chemical process of leavening that makes raw dough expand and also improves the taste of the raw dough. Proofing is therefore known and important to the process of making a dough product.

Schiffmann discloses an improved proofing method. Indeed, the title of *Schiffmann* is Dough Proofing Method. *Schiffmann* states at column 5, line 62:

Heating the dough in this manner greatly shortens the proofing time. The reason for the field-free or rest zone is that in the first

heating zone the dough pieces heat unevenly; the intermediate rest zone allows the temperature of each dough piece to equilibrate.

Fig. 3 of *Schiffman* is also telling. That figure compares the inventive profile of *Schiffman* (case X) with prior art or inferior profiles (case A), (case B) and (case C). Column 6 beginning at line 53 of *Schiffman* discusses Fig. 3. At line 73, *Schiffman* states:

. . . the product is removed from the high frequency field before any portion of the dough has reached a temperature at which either yeast is killed or flour protein is denatured (i.e., temperatures are maintained at or below 130°F., with the average temperature closer to 100 to 110°F.).

Schiffman therefore teaches away from the present invention. Indeed, each of the profiles shown in Fig. 3 show the heated dough rising to only 115°F. The rest period of *Schiffman* is intended to enable unevenly heated areas of the dough in a first zone to equilibrate. *Schiffman* does not teach proofing the dough and then superproofing the dough to form a skin on the dough, which includes at least some dead yeast. *Schiffman* instead teaches only a proofing process having an intermediate rest zone in which energy is not delivered to the dough.

Each of the claims of the present invention is either already distinguished over *Schiffman* or, as presented herein, is distinguished over *Schiffman*. Turning to Claim 1, as presently presented Claim 1 includes a finally heated skin on the dough, which has been created through a superproofing step, which relatively quickly warms or sears the dough to a temperature that kills at least some of the yeast on the skin, but does not kill the live yeast within the dough, enabling the dough to rise upon baking. Claim 1 is distinguished over *Schiffman* in a number of respects. First, as discussed above, *Schiffman* does not teach and indeed teaches away from providing a superproofing step in which the dough is energized so that a skin is formed having at least some dead yeast, but wherein the yeast within the dough is alive.

Second, the skin in Claim 1 is a finally heated skin. That is, the skin is not otherwise heated. *Schiffman*, on the other hand, teaches discharging the dough from conveyor belt 32 into a fryer 42. The skin of *Schiffman* leaving zone C shown in Fig. 1 is not the finally heated skin because the dough is placed into a fryer 42. Applicants therefore submit respectfully that presently presented Claim 1 as well as Claims 2 to 5 that depend from Claim 1 are each novel, non-obvious and patentably distinct over *Schiffman*.

Claim 6, as presently presented, includes a skin on the dough, which has been produced by searing the dough so that the skin achieves a temperature of between 130°F and 160°F. As discussed above, *Schiffman* expressly teaches away from heating the dough to form the claimed skin by searing the dough skin to a temperature between 130°F and 160°F. Column 7, line 2 of *Schiffman* on the other hand indicates a preference of a temperature of 100 to 110°F. Fig. 3 of *Schiffman* shows four profiles, none of which shows the dough temperature rising above 115°F. Applicants therefore respectfully submit that Claim 6 and Claims 7 to 10 that depend from Claim 6 are each novel, non-obvious and patentably distinct over *Schiffman*.

Claim 11, as presently presented, is directed to a method which includes a proofing step, a superproofing step in which the dough is further heated to a temperature of less than 160°F and a step in which the dough is packaged without further heating. As discussed above, *Schiffman* discloses a proofing, not a superproofing, step. Further, *Schiffman* discloses placing the proofed product into a fryer. *Schiffman* does not teach or suggest packaging the product after it leaves zone C as described in connection with Fig. 1 of *Schiffman*. Accordingly, Applicants submit respectfully that Claim 11 and Claims 12 to 22 that depend from Claim 11 are each novel, non-obvious and patentably distinct over *Schiffman*.


Claim 23 as presented originally is directed to a process for preparing a self-rising dough product, which includes the step of further heating a dough quantity to between 130°F and 160°F and thereafter freezing the dough quantity. *Schiffman* does not teach the above-recited steps. *Schiffman* expressly teaches away from energizing the dough to a temperature above 130°F. Instead, *Schiffman* teaches heating the dough from 100 to 110°F and then frying the dough. Accordingly, Applicants submit respectfully that Claim 23, and Claim 24 that depends from Claim 23, are each novel, non-obvious and patentably distinct over *Schiffman*.

Claim 19 has been amended merely to insert commas, which Applicants believe make the claim more readable. Applicants expressly disclaim no subject matter by that amendment with respect to the art of record. Applicants respectfully submit that the amendment is not narrowing.

For the foregoing reasons, Applicants respectfully submit that the above-identified patent application is now in condition for allowance and earnestly solicit reconsideration of same.

Respectfully submitted,

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